

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

MJ87NPUS

First Named Inventor: Kia Silverbrook

Art Unit: 2853

Application Number: 10/510098

Examiner: An H Do

Filed: December 8, 2004

Title: Ink Jet Nozzle Assembly Including Displaceable Ink Pusher

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity – fee \$ 500.00 (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

B The issue fee of \$ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

- 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



August 8, 2007

Signature

Date

Kia Silverbrook

Typed or printed name

Registration Number, if applicable

393 Darling Street

+612 9818 6633

Address

Telephone Number

BALMAIN, NSW 2041, Australia

Address

Enclosure ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

August 8, 2007

Date

Kia Silverbrook

Typed or printed name

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Upon checking PAIR, the Applicant noted that a Notice of Non-compliance had been sent to him but had then been returned to the USPTO. The Applicant has never received the Notice of Non-Compliance. However, since the Applicant unexpectedly became aware of that Notice through PAIR, the Applicant was able to download the Notice. Unfortunately, the deadline to reply to the Notice, (March 21, 2007), is now well and truly passed.

The Applicant would have ensured to reply to the Notice in good time, had the Notice been received. No Notice of Abandonment has yet issued but the Applicant would like to revive this application as soon as possible in order to avoid any further delays. A reply to the Notice of Non-Compliance is enclosed, together with petition fee and adequate showing of the cause of unavoidable delay.

(Please attach additional sheets if additional space is needed.)

In the United States Patent and Trademark Office

Serial Number: 10/510098
Application Filed: August 21, 2002
Applicant: Kia Silverbrook
Application Title: Ink Jet Nozzle Assembly Including Displaceable Ink Pusher
Examiner/GAU: An H Do / 2853

Dated August 08, 2007
At: Balmain, NSW
Docket No. MJ87NPUS

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Commissioner for Patents
Washington, District of Columbia 20231

Dear Sir:

In response to the Examiner's Notice of Non-Compliant Amendment mailed on September 21, 2006, the Applicant hereby petitions for revival of this patent application, pursuant to 37 CFR 1.137(a).

It is submitted that the Applicant's delay in replying to the Notice of Non-Compliant Amendment before the deadline set forth in that Notice of Non-Compliant Amendment was unavoidable.

This petition is accompanied by the following:

- (1) A Reply to the Notice Of Non-Compliance.
- (2) The petition fee, as set forth in 37 CFR 1.17(l).
- (3) A summary of the facts of this case showing that the entire delay was unavoidable.

This summary is provided as follows:

- (i) The Applicant noted a Notice of Non-Compliant Amendment mailed September 21, via PAIR, had issued.
- (ii) The Applicant noted that the Notice of Non-Compliant Amendment had not been received as it had been returned to the USPTO, even though the address shown on the envelope is correct (copy enclosed).
- (ii) The Applicant became aware that the deadline to the Non-Compliant Amendment had passed.
- (iii) The reason that the Applicant is delayed in replying to the Notice of Non-Compliant Amendment is due to the initial Notice of Non-Compliant Amendment being returned to the USPTO (copy of PAIR document description listing enclosed). As a consequence, the Applicant was unaware such a Notice had issued at the time.
- (iv) It is submitted that, in the circumstances, the Applicant's entire delay in filing the required reply to the Notice of Non-Compliant Amendment by the deadline set forth in the Notice of Non-Compliant Amendment was *unavoidable*.

It is requested that this application be revived under the provisions of 37 CFR 1.137(a).

Very respectfully,

Applicant:



Kia Silverbrook

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Balmain NSW 2041, Australia

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Organization

TC-2800 Bldg./Room JEP

UNITED STATES PATENT AND TRADEMARK OFFICE

P.O. Box 1450

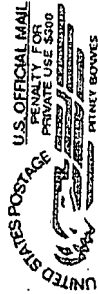
Alexandria, VA. 22313-1450

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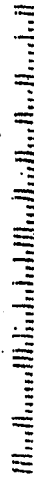
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SEP 27 2006

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00194/2000



10/510,098 Ink jet nozzle assembly including displaceable ink pusher

08-07-
2007::00:46:36

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

Available Documents

| | Document Description | Document Category | Page Count |
|------------|---|--------------------------|-------------------|
| 09-27-2006 | Mail returned to USPTO as undelivered | PROSECUTION | 3 |
| 09-21-2006 | Notice to the applicant regarding a Non-Compliant Amendment | PROSECUTION | 2 |
| 09-21-2006 | Fee Worksheet (PTO-06) | PROSECUTION | 1 |
| 09-15-2006 | Amendment - After Non-Final Rejection | PROSECUTION | 1 |
| 09-15-2006 | Specification | PROSECUTION | 1 |
| 09-15-2006 | Claim-Amendment Not Entered | PROSECUTION | 2 |
| 09-15-2006 | Applicant Arguments/Remarks Made in an Amendment | PROSECUTION | 2 |
| 09-15-2006 | Terminal Disclaimer Filed | PROSECUTION | 5 |
| 09-15-2006 | Transmittal to TC | PROSECUTION | 1 |
| 06-15-2006 | Non-Final Rejection | PROSECUTION | 10 |
| 06-15-2006 | List of References cited by applicant and considered by examiner | PROSECUTION | 7 |
| 06-15-2006 | List of references cited by examiner | PROSECUTION | 1 |
| 06-15-2006 | Search information including classification, databases and other search related notes | PROSECUTION | 1 |
| 06-15-2006 | Index of Claims | PROSECUTION | 1 |
| 06-15-2006 | Bibliographic Data Sheet | PROSECUTION | 1 |
| 06-08-2006 | Examiner's search strategy and results | PROSECUTION | 3 |
| 11-09-2005 | Index of Claims | PROSECUTION | 1 |
| 10-26-2005 | Notice of DO/EO Acceptance Mailed | PROSECUTION | 2 |
| 10-26-2005 | Miscellaneous Action with SSP | PROSECUTION | 1 |
| 09-30-2005 | Petition Decision | PROSECUTION | 2 |
| 04-15-2005 | Petition Entered | PROSECUTION | 15 |
| 03-21-2005 | Abandonment | PROSECUTION | 1 |
| 12-08-2004 | Bibliographic Data Sheet | PROSECUTION | 1 |
| 12-08-2004 | Oath or Declaration filed | PROSECUTION | 2 |
| 10-05-2004 | Transmittal of New Application | PROSECUTION | 2 |
| 10-05-2004 | Specification | PROSECUTION | 25 |
| 10-05-2004 | Claims | PROSECUTION | 2 |
| 10-05-2004 | Abstract | PROSECUTION | 1 |
| 10-05-2004 | Drawings | PROSECUTION | 45 |
| 10-05-2004 | Oath or Declaration filed | PROSECUTION | 3 |
| 10-05-2004 | Claims Worksheet (PTO-2022) | PROSECUTION | 1 |
| 10-05-2004 | Fee Worksheet (PTO-06) | PROSECUTION | 1 |
| 10-05-2004 | Fee Worksheet (PTO-06) | PROSECUTION | 2 |
| 10-05-2004 | Information Disclosure Statement (IDS) Filed | PROSECUTION | 7 |
| 10-05-2004 | NPL Documents | PRIOR ART | 80 |
| 10-05-2004 | Miscellaneous Internal Document | PROSECUTION | 1 |
| 10-05-2004 | Documents submitted with 371 Applications | PROSECUTION | 3 |
| 10-05-2004 | Documents submitted with 371 Applications | PROSECUTION | 5 |

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/510,098 | 12/08/2004 | Kia Silverbrook | MJ87US | 5074 |
| 24011 | 7590 | 09/21/2006 | EXAMINER | |
| SILVERBROOK RESEARCH PTY LTD 393 DARLING STREET BALMAIN, NSW 2041 AUSTRALIA | | | DO, AN H | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2853 | |



DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/510098

Applicant(s)

Examiner

An H Do

Art Unit

2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 9/15/06 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
- Claim 9 is missing

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment, an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Dorothy Bell

Legal Instruments Examiner (LIE), if applicable

371. 272-1552

Telephone No.